



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** September 2, 2004

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COUNCIL DISTRICT: Citywide

**SUBJECT: PROPOSED UPDATE OF CITY COUNCIL POLICY 6-30, PUBLIC OUTREACH FOR PENDING LAND USE AND DEVELOPMENT PROPOSALS.**

## **RECOMMENDATION**

Staff recommends that the Planning Commission recommend to the City Council approval of the proposed update to *City Council Policy 6-30, Public Outreach*.

## **BACKGROUND**

As the result of communications between the Strong Neighborhoods Initiative Project Area Committee (SNI PAC) and the Planning Director, the PAC established a subcommittee to identify potential modifications to City Council Policy 6-30, Public Outreach. The subcommittee began meeting with Planning staff in January 2003, and by August 2003, a draft proposed Policy update was complete. During the fall 2003, subcommittee members presented the proposed revisions to every SNI Neighborhood Advisory Committee (NAC) and obtained their feedback on the draft update. In addition, Planning staff reviewed the draft update with the San Jose Silicon Valley Chamber of Commerce and the Home Builders Association (HBA).

While the response from the neighborhoods was very positive, the Chamber and HBA expressed concerns about the proposed update to the Outreach Policy. Concerns included, but were not limited to: potential cost increases as a result of expanded hearing notice requirements, prolonged process times, and undefined roles and responsibilities. As a result of the initial outreach, staff invited representatives of the Chamber, HBA, National Association of Industrial and Office Properties (NAIOP), and real estate development interests to work with the PAC subcommittee in a focus group setting to find common ground and direction for the update to the Outreach Policy.

The focus group has been meeting since December 2003 to understand each other's interests, identify common outcomes, and work toward consensus on a revised policy. At its June 29<sup>th</sup>

meeting, the focus group agreed to an alternative format for the Policy, which clearly describes its purpose and intent, defines the roles and responsibilities of all the stakeholders, defines land use development project sizes and types and identifies the outreach opportunities for each, and distributes the cost of increased outreach amongst the stakeholders.

## **ANALYSIS**

The proposed update to the Policy includes a substantial number of text revisions and additions, as well as an improved organization of the policy elements (see Exhibit A). The most significant changes proposed to the Policy are intended to: 1) provide early notification of pending applications to potentially interested parties; 2) convey land use and development information in easy to understand language; 3) provide translation services as needed to reach a broader audience; and 4) clarify the roles and responsibilities of the various stakeholders in the land use and development review process. Overall, the proposed revisions should promote effective public outreach and communication by ensuring the accessibility of information through an established and efficient process.

As the original Public Outreach Policy (see Exhibit B) was perceived to be unclear and cumbersome, the focus group decided to craft a new document. The update has been reorganized so that the goals and objectives of the Policy, and the roles and responsibilities of all stakeholders are clearly defined at the beginning of the document. Several new definitions have been added to the Policy, notably the “Significant Community Interest Proposal” for applications with the potential to have a high degree of interest either at a local or Citywide level, thereby requiring additional or expanded modes of outreach. The current Policy uses the term “Controversial Proposal.” The Policy then identifies four key steps in the outreach and communication process: early notification, community meetings, on-site noticing, and public hearing notices. For each step, the Policy articulates the purpose and intent, the appropriate outreach modes, and timing. A new section is proposed to be added to the Policy to discuss community input for items that are deferred or continued from the noticed public hearing.

In addition, two matrices are proposed to be added to the Policy. Matrix A: Modes of Outreach identifies the various methods of outreach for each project type, specifying the modes that are essential, desirable, and appropriate in certain circumstances. Matrix B: Application Types and Special Uses lists the various application types and special uses with their standard notification radius. It is intended that the two matrices be used as quick references for users of the Policy to preliminarily identify the modes of outreach that are required by application type and project size. Additional modes of outreach and expanded notification radii may occur for special interest projects.

The notification radius identified in Matrix B, is based on the nature of the application using the definitions provided at the beginning of the policy: Very Small Development Proposal, Standard Development Proposal, Large Development Proposal, and Significant Community Interest Proposal. Very Small Development Proposals are those proposals that are considered being administrative in nature and having very localized interest to the community. Standard Proposals

are proposals that are not Very Small, Large or of Significant Interest, while Large Development Proposals are based on size. Significant Community Interest Proposals are proposals that have been determined to have the potential for a high degree of interest at a local or City-wide level.

### ***Early Notification***

As stated in the Policy, the intent of Early Notification is to ensure that all stakeholders have as much advanced notification of proposed land use and development projects as possible. As is currently the practice, at a minimum, all development applications should be posted on the Planning Division's website at the time of application submittal. Further Early Notification would be achieved through an email notification system to which individuals would subscribe, and posting of a Notice (sign) at the property for which an application is submitted.

### ***Community Meetings***

As with the original Public Outreach Policy, there should be at least one community meeting for applications identified as Large Proposals as well as for Significant Community Interest Proposals. The meeting should be held as early as possible in the process before proposal details are finalized, but cannot occur sooner than 45 days after an application is submitted and no less than 30 days prior to the Public Hearing. This window has been created so that meetings are not held too early in the process when staff may not yet have completed an initial review of the proposal, nor too late in the process when detail may be finalized. Meeting logistics clarify the roles of the applicant and staff at the meetings. As with the original Policy, suggestions for meeting locations and times are included.

### ***On-Site Noticing***

The original Public Outreach Policy requires the posting of signs on properties for Large and/or Controversial Proposals. The update proposes notices of application submittal to be posted on all properties for which public hearings are required. The notices would be of a standard format, developed by the Department of Planning, Building and Code Enforcement, and would be provided to applicants to fill out at the time of application submittal. On-site Notices should be posted within 10 working days of the filing of a development application. The intent of On-site Notices is to provide a visible announcement to immediate neighbors and members of the public passing by that an application is on file for the subject property.

### ***Public Hearing Notice***

While it is the City's policy to mail Public Hearing notices a minimum of two weeks prior to the hearing for Standard and Large Proposals, the proposed Policy update extends the mailing for Significant Community Interest Proposals to a minimum of 21 days prior to the hearing. While the Policy extends the timing and radius of noticing beyond state requirements, the City recognizes the importance of using larger radius noticing to broaden awareness of pending applications and to promote an open process that encourages genuine and effective involvement by all interested parties. The update also stresses the importance of using notice language that

clearly describes a project in concise and plain terms, limiting technical terms to ensure the highest level of understanding of the information presented to the public.

To further promote the opportunity for interested parties to become involved in the land use and development review process, the Public Hearing notices should be revised to include a note in Spanish and Vietnamese that explain how the public can receive project and hearing information in these languages. In addition, notices for Large Proposals are proposed to be translated into the dominant languages spoken in a neighborhood as needed, at the cost of the applicant.

Translation of notices for Significant Community Interest Proposals would be translated at the cost of the requesting Neighborhood Group, NAC, or Community Organization. Staff has reviewed the translation process and associated costs with other Departments and Agencies, and has concluded that translation can be incorporated into the existing process timelines, and that after initial set-up cost the translation fees should be minimal. While initially using professional translation services, staff would continue to incorporate the language skills of City staff to minimize costs when possible. As with the existing Policy, publishing fees for newspaper advertisements will be at the expense of the applicant.

### ***Community Input for Items Deferred or Continued from the Noticed Public Hearing***

In the past, members of the public have expressed frustration when they have made arrangements to attend and possibly provide testimony at a noticed hearing, only to discover that the item has been deferred or continued. In response, the update to the Public Outreach Policy proposes that community input in the form of public testimony should be taken by the decision-making body at the originally scheduled hearing date. While circumstances beyond staff or the applicant's control may delay action on an application, public participation should be encouraged and facilitated by allowing testimony at the scheduled hearing.

### ***Comments and Concerns with the Proposed Update***

The majority of comments received during the two phases of outreach meetings have been positive. Suggested revisions and clarifications by the various stakeholders have been incorporated into the proposed update where possible. The focus group has worked diligently to reach consensus on the Policy update; however, there remain several concerns. The HBA is concerned about perceived time and cost implications of the proposed update on the land use and development process.

## **CONCLUSION**

Staff recommends adoption of the proposed update as currently drafted. An extensive effort to include representatives from the residential, business, and real estate development communities in the revision process and to conduct extensive outreach to the various stakeholders, has resulted in a document supported by most interested parties. As stated above, representatives of the Home Builders Association (HBA) have expressed concerns that the proposed revisions to the Policy could impact the process times and costs of development applications. A significant

effort has been made to address the concerns of HBA, including text revisions, and assuring them of the Department's commitment to meeting performance goals related to the timely review of applications and distribution of costs related to translation amongst the stakeholders. Other building industry leaders have expressed support of the revised Policy, as have the multiple neighborhood groups and community organizations contacted regarding this effort.

The proposed policy update is scheduled to be reviewed by the City Council on September 21, 2004. Staff will forward Planning Commission recommendations and any public comments to the City Council.

### **PUBLIC OUTREACH**

Two rounds of outreach meetings were conducted as part of the process to update the Public Outreach Policy. In October 2003, the SNI PAC subcommittee members attended all of the SNI NAC meetings to present and gather feedback on the first draft revisions to the Policy. At the same time, staff introduced the proposed revisions to the Chamber of Commerce, the HBA, and the Developer's Roundtable (a monthly forum hosted by the Director of Planning). After representatives of the Chamber, HBA, National Association of Industrial and Office Properties (NAIOP), and real estate development interests were invited to work with the PAC subcommittee as a focus group and a new revised update to the Policy was drafted, a second round of outreach was conducted. Beginning in July 2004, representatives from the Focus Group and staff began presenting the final Draft Public Outreach Policy to the NACs and other interested parties. These efforts will continue through the beginning of September. In addition, the revised Policy was taken back to the Developer's Roundtable, and discussions continued with the HBA.

Additional outreach efforts were coordinated with several Council District offices to reach community members not represented by a NAC or neighborhood association. These efforts included District-wide community meetings, and distribution of the proposed Policy via email. Staff also attended two SNI PAC meetings to review the proposed update and responses received through the outreach efforts, and presented the update to the Parks and Recreation Commission. The proposed update has been posted on the Planning website under "What's New", providing the public the opportunity to review and comment on the revision.

Staff has been available by phone, email and in person to discuss the update with all interested parties.

### **ENVIRONMENTAL REVIEW**

Not a project.

PLANNING COMMISSION

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## **COORDINATION**

This report has been prepared in coordination with the City Attorney's Office.

STEPHEN M. HAASE, DIRECTOR  
Planning, Building and Code Enforcement

Attachments:

Exhibit A Update of the Public Outreach Policy

Exhibit B City Council Policy 6-30, Public Outreach (adopted 1999)

